



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF REGIONAL OFFICES
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Hon. Arlene R. Lindsay
United States District Court for the Eastern District of New York
814 Federal Plaza
Central Islip, N.Y. 11722

March 8, 2023

Re: **McGregor, et al. v. Suffolk County, et al.**
Docket No.: 2:23-cv-01130 (Brown, J.) (Lindsay, M.J.)

Dear Magistrate Judge Lindsay:

This Office represents Steven Nigrelli, sued in his official capacity as Acting Superintendent of the N.Y. State Police (the “Superintendent”). We write to request that Your Honor stay discovery and adjourn submission of the Rule 26 Meeting Report, currently due by April 11, 2023, until such time as Judge Brown determines Plaintiffs’ pending motion for a preliminary injunction and the Superintendent’s anticipated motion to dismiss. Plaintiffs’ counsel and the County Attorney’s office, on behalf of the co-defendants, consent to this request.

Background

Plaintiffs—four individuals, a company that sells firearms, and its owner—commenced the instant action on February 10, 2023 under 42 U.S.C. § 1983 to challenge: (i) New York Penal Law § 400.00’s requirement of a license for the purchase and transfer of ownership of a semiautomatic rifle (the “Rifle Law”), and (ii) Suffolk County’s procedures related to the licensing of semiautomatic rifles. The Complaint seeks, *inter alia*, a declaration that the Rifle Law is facially unconstitutional and an injunction enjoining Defendants from implementing and enforcing the law.

On February 17, 2023, Plaintiffs moved by Order to Show Cause seeking a temporary restraining order and a preliminary injunction enjoining Defendants from enforcing the law. The Superintendent opposed Plaintiffs’ request for relief and asked this Court for the opportunity to brief the issues raised in Plaintiffs’ motion. By Order dated February 21, 2023, this Court granted the Superintendent’s application, stating that a 45-day briefing schedule was appropriate, meaning that Defendants’ opposition papers are due by April 7, 2023.

Thereafter, on March 7, 2023, the Superintendent filed an application with Judge Brown requesting a pre-motion conference in anticipation of moving to dismiss the Complaint. The grounds for the motion are set forth in the Superintendent’s letter, filed at ECF No. 11, to which the Court is referred. That application is currently pending.

A Stay of Discovery is Warranted

A district court may stay discovery during the pendency of a motion to dismiss for “good cause shown.” *Chesney v. Valley Stream Union Free School Dist. No. 24*, 236 F.R.D. 113, 115 (E.D.N.Y. 2006). Good cause “requires a showing of facts militating in favor of the stay.” *Id.* The court may also consider “the nature and

complexity of the action, whether some or all of the defendants have joined in the request for a stay, and the posture or stage of the litigation.” *Id.*

It is respectfully submitted that this standard has been met in the instant case. First, all of the parties have agreed to the requested stay. Second, this case is at its early stages with two motions pending before Judge Brown. Third, Judge Brown’s resolution of Plaintiffs’ application for a preliminary injunction and the Superintendent’s anticipated motion to dismiss will likely have an impact on further proceedings in this matter. As a result, there is good cause to issue the stay.

Thank you for your consideration of this application

Respectfully,

Patricia Hingerton & Robert E. Morelli

cc: Counsel for all Parties via ECF

Assistant Attorneys General